

Attorney Docket No. P66334US0
Serial No.: 09/744,752

Remarks/Arguments

Claims 20-36, presented hereby, are pending.

Present claims 20-36 replace original claims 1-19, canceled without prejudice or disclaimer hereby.

As an initial matter, the instant Office Action mistakenly indicates that claims 1-20 were pending; in that there are only nineteen (19) original claims in the subject, national-stage application. While there were twenty claims in the originally filed *international* application, they were replaced during the international stage by (amended) claims 1-19.

Present claims 20-36 correspond to original claims 1-17, revised to more clearly define the instant invention, i.a., in order to address issues raised in the statement of rejection under 35 USC 112, paragraph 2, as explained below.

In accordance with present (replacement) claim 20, the terms "residence" and "chamber" replace the words "dwelling" and "space," recited in corresponding original claim 1, the replacement terms being more readily recognized. This is more or less suggested, apparently, by the Examiner (Office Action, page 6, second paragraph, line 4 and 5).

In accordance with present (replacement) claim 23, the term "vaporization" replaces "atomization," i.e., found in corresponding claim 4. The fuel is vaporized to yield in "aerosol-like" state and, so, the term "vaporization" meets the real situation better than "atomization."

In present claims 29 and 30, replacing claims 10 and 11, respectively, the added wording "for providing at least partially vaporized fuels" can be derived directly from the present specification (page 13, paragraph 3).

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In connection with the objection to the specification, and the corresponding suggested changes, use of the Kelvin temperature scale ($^{\circ}$ K) creates no confusion, whatsoever, notwithstanding statements to the contrary set forth in the objection. Accordingly, the suggested changes being unnecessary, no such changes are made.

Claim 18 was rejected under 35 USC 112, first paragraph, as allegedly lacking descriptive support in the application as originally filed. Reconsideration is requested.

According to the statement of rejection, claim 18 is not supported by the written description of invention because claim 18 is a product-by-process claim, which "product is not explicitly defined and therefore it appears that claim 18 does not find support in the description of the instant specification" (Office Action, page 2).

The rejection under §112, ¶2, cannot be maintained because no reasoning sufficient to support the rejection is set forth in the statement of rejection. The alleged reason, i.e., that the product of product-by-process claim 18 "is not explicitly defined" in the specification (other than by its process of manufacture) is irrelevant. As set forth in MPEP 2173.05(p) (*emphasis added*):

A product-by-process claim, which is a product claim that defines the claimed product in terms of the process by which it is made, is proper. In re Luck, 476 F.2d 650, 177 USPQ 523 (CCPA 1973); In re Pilkington, 411 F.2d 1345, 162 USPQ 145 (CCPA 1969); In re Steppan, 394 F.2d 1013, 156 USPQ 143 (CCPA 1967).

Accordingly, withdrawal of the rejection is in order.

Claims 1-19 were rejected under 35 USC 112, second paragraph, for allegedly being indefinite. Reconsideration is requested in view of the changes to the claims effected, hereby, taken in conjunction with the following remarks.

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First of all, In connection with the rejection under §112, ¶2, applicants wish to thank the examiner for the helpful suggestions for replacement claim language for overcoming the rejection, set forth in the Office Action. Most of these suggestions have been incorporated into the present, replacement claims

In connection with the rejection as applied to original claims 2, 4, 5, 9, 10, 11, 14, 15, and 17, applicants have incorporated the examiner's helpful suggestions for replacement claim language in order to overcome the section 112, paragraph 2 rejection as to the aforesaid, rejected claims. Accordingly, withdrawal of the rejection is in order.

The rejection of claim 18 under 35 USC 102(b) is rendered moot by cancellation of the rejected claim.

The rejection of claim 20 under 35 USC 102(b) is invalid, since there was no claim 20 to reject.

In connection with the §112, ¶2, rejection based on the alleged indefiniteness attributed to use of the Kelvin (° K) temperature scale, and to reciting "bar" to define units of pressure, the rejection cannot be maintained.

The test for indefinite claim language is whether one of ordinary skill in the art would be confused as to the subject matter circumscribed by the claims. *In re Kroekel*, 183 USPQ 610 (CCPA 1974). Applying this test demonstrates that the language at issue satisfies the requirements of §112, ¶2.

In the instant situation, both "° K" (Kelvin) and "bar" represent units of measurement have well defined meanings in the art. For example *Merriam-Webster Medical Dictionary*, online at URL

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<http://www2.merriam-webster.com/cgi-bin/mwmednlm?book=Medical&va=kelvin> (printout page attached, hereto) defines "Kelvin" as "the base unit of temperature in the International System of Units that is equal to 1/273.16 of the Kelvin scale temperature of the triple point of water and also to the Celsius degree," and *Merriam-Webster Medical Dictionary*, online at URL <http://www2.merriam-webster.com/cgi-bin/mwmednlm> (printout page attached, hereto) defines "bar" as "a unit of pressure equal to 100,000 pascals or to one million dynes per square centimeter or to 0.9869 atmosphere."

Moreover, it is applicant's sole prerogative to define the claims. *In re Pilkington*, 162 USPQ 145, 148 (CCPA 1969). That the PTO might prefer different claim terminology is not proper grounds for a rejection under §112, ¶2.

As such, withdrawal of the rejection under §112, ¶2, based on use of "° K" and "bar" in the claims is in order.

The section 112, paragraph 2, rejection as applied to claims 18 and 19 is rendered moot by cancellation of these claims.

The rejection under section 112, second paragraph, of claim 20 is invalid, since there was no original claim 20 to reject.

Applicants wish to thank the examiner for the indication of potentially allowable subject matter in original claims 1-17. Applicants have amended the claims substantially as suggested by the examiner, i.e., in order to overcome the rejection of record under §112, ¶2, and, therefore, render the claims (i.e., pending claims 20-36) allowable.

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***Request for Acknowledgment of
Foreign Priority Under 35 USC 119***

A claim to foreign priority under 35 USC 119 has been made (inventorship declaration, filed March 23, 2001) and the certified copy of the priority document received by the PTO (Notification of Acceptance, mailed 4 April 2001 by the PTO, and Form PCT/IB304, mailed 8 November 1999 by the International Bureau).

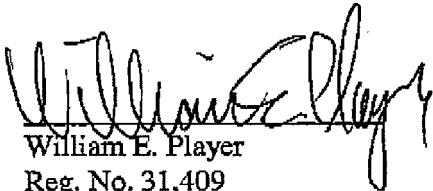
Accordingly, request is made that the Examiner mark the next Office Action to acknowledge, both, the claim to §119 priority and receipt of the certified copy.

Favorable action is requested.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By


William E. Player
Reg. No. 31,409

400 Seventh Street, NW
The Jenifer Building
Washington, D.C. 20004
Tel. (202) 638-6666
Fax (202) 393-5350
Date: September 8, 2003
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| bar[3,noun] | |
| bar | |
| Mercier's bar | |
| palatal bar | |

Main Entry: ³barFunction: *noun*

: a unit of pressure equal to 100,000 pascals or to one million dynes per square centimeter or to 0.9869 atmosphere

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| | | |
|------------------------------|--------------------|----------------------|
| \&\ as a and u in abut | \ch\ as ch in chin | \o\ as aw in law |
| \e\ as e in kitten | \e\ as e in bet | \oi\ as oy in boy |
| \&r\ as ur and er in further | \E\ as ea in easy | \th\ as th in thin |
| \a\ as a in ash | \g\ as g in go | \th\ as th in the |
| \A\ as a in ace | \i\ as i in hit | \u\ as oo in loot |
| \ā\ as o in mop | \i\ as i in ice | \u\ as oo in foot |
| \au\ as ou in out | \j\ as j in job | \y\ as y in yet |
| | \ng\ as ng in sing | \zh\ as si in vision |
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Kelvin scale

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Main Entry: kel·vin

Pronunciation: 'kel-vən

Function: *noun*

: the base unit of temperature in the International System of Units that is equal to 1/273.16 of the Kelvin scale temperature of the triple point of water and also to the Celsius degree

Thom·son 'tām(p)-sən, Sir William (1st Baron Kelvin of Largs) (1824-1907), British physicist. One of the most influential scientists of the 19th century, Thomson made important contributions in almost every branch of the physical sciences. He was a prolific inventor. He created the first physics laboratory in Great Britain and was the first to teach physics in a lab. He developed the Kelvin scale in 1848. From 1848 on he did thermodynamic research, often in collaboration with James P. Joule. Between 1851-54 Thomson helped to formulate the first two laws of thermodynamics. During the next few years he laid the theoretical foundations for submarine telegraphic transmission. He was the leading scientist involved in the laying of the transatlantic cable. He also made discoveries in electromagnetism and investigated wave motion and vortex motion.

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| \&\ as a and u in about | \ch\ as ch in chin | \o\ as aw in law |
| \&\ as e in kitten | \e\ as e in bet | \o\ as oy in boy |
| \&\ as ur and er in | \E\ as ea in easy | \th\ as th in thin |